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REMARKS

Claims 1-32 remain in this application. Claims 1, 14 and 25 have been amended and new claims 27-34 have been added. Applicants believes that all claims are now allowable, as set forth in more detail below.

The Examiner has rejected claims 1-4, 6, 7, 9-13 and 23 under 35 U.S.C. § 102(b) as being anticipated by *Hayes* (U.S. Pat. No. 5,929,987 (Two Hayes patents are listed in the Information Disclosure Statement filed on Oct. 26, 2001. However, the other Hayes patent does not include all the figure numbers (*e.g.*, Figures 7) that Examiner referred to. It therefore appears reasonable to assume that Examiner was referring to the '987 patent.)) Applicant respectfully submits that these claims, as amended, are not anticipated by *Hayes*.

Each of the independent claims 1 and 23 recites "a collection optic positioned between the beam splitter and the target". *Hayes* does not teach a device having this feature. Claims 1 and 23 are therefore not anticipated by *Hayes*. Each of claims 2-4, 6, 7 and 9-13 is ultimately dependent on claim 1 and therefore includes the above-discussed limitation. Claims 2-4, 6, 7, and 9-13 are thus also not anticipated by *Hayes*.

Examiner rejected claims 14-18 under 35 U.S.C. § 102(b) as being anticipated by *REF* (IBM Technical Disclosure entitled as "Head/Suspension Assembly Static Pitch/Roll Angle Tester"). Applicant respectfully submits that these claims, as amended, are not anticipated by *REF*.

Independent claim 14, as amended, requires "collimating the beam directed onto the target". *REF* does not disclose this limitation. Claim 14 is therefore not anticipated by *REF*. Furthermore, claims 15-18 ultimately depend on claim 14 and therefore each contains the limitation. Thus, claims 15-18 are also not anticipated by *REF*.

It should be further noted that claims 1-4, 6, 7, 9-18 and 23 discussed above are also not obvious over prior art. To establish *prima facie* obviousness, there must be suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *See, MPEP* 2143.01. One aspect of the invention claimed in the present application involves

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eliminating or reducing errors in measurements by making the polarization of the light reflected from the target at an angle, *e.g.*, orthogonal, to that of the light from the internal reflections of the collection optics. In at least one disclosed embodiment of the invention, this polarization difference is created by passing both the light travelling towards and reflected from the target through a quarter-wave plate. The light due to internal reflections from the collection optics does not undergo the same polarization shift because it does not go through the double pass of the quarter-wave plate. None of the references cited by Examiner suggests adding a collection optic to the optical system for this purpose, much less using polarization shift to eliminate or reduce any stray beams caused by such a collection optic. The WYKO probe disclosed in the background section of the application does include collection optics for collimating the beam incident upon the target. However, until the invention disclosed in the present application, there is no teaching of how to eliminate or reduce the optical signals due to these collection optics.

In view of these advantages offered by the claimed invention, Applicant respectfully submits that the claims 1-4, 6, 7, 9-18 and 23 are not obvious in light of any cited prior art.

Examiner rejected claims 5, 8 and 24 under 35 U.S.C. § 103(a) as being unpatentable over *Hayes*. Examiner further rejected claims 20-22, 25 and 26 under 35 U.S.C. § 103(a) as being unpatentable over *Hayes* in view of *REF*. Applicant respectfully disagrees.

Regarding claims 5, 8, 20-22 and 24, each of these claims ultimately depends on either claim 1, 14 or 23 and provide additional features and advantages. Claims 5, 8, 20-22 and 24 are thus not obvious in light of the cited references.

Regarding claims 25 and 26, independent claim 25 now includes the limitation "a collection optic positioned between the second beam splitter and the target". As discussed above with respect to independent claims 1 and 23, such a limitation is not found in either *Hayes* or *REF*. Further as discussed above regarding obviousness, the combination of a collection optic and polarization component is not obvious in light of prior art. Claim 25 is therefore not obvious over the cited references. Claim 26, being dependent on claim 25, is therefore also not obvious.

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Each of the new claims 27-34 is ultimately dependent on a claim that Applicant believes is now allowable. Further features, such as the spatial relationship among the beam splitter, collection optic, quarter-wave plate and target as recited in claims 28 and 31, additionally distinguish these claims from the prior art. Applicant therefore believes that new claims 27-34 are allowable.

Applicant respectfully submits that claims 1-34 are now allowable and requests that a timely Notice of Allowance be issued in this case.

Respectfully Submitted,

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